

REMARKS

Claims 39-48 and 50-55 remain in the present application for the Examiner's review and consideration, with claims 41, 48 and 50-53 withdrawn as being directed to non-elected species. Claims 1-3, 4-7, 8-38 and 49 were previously canceled.

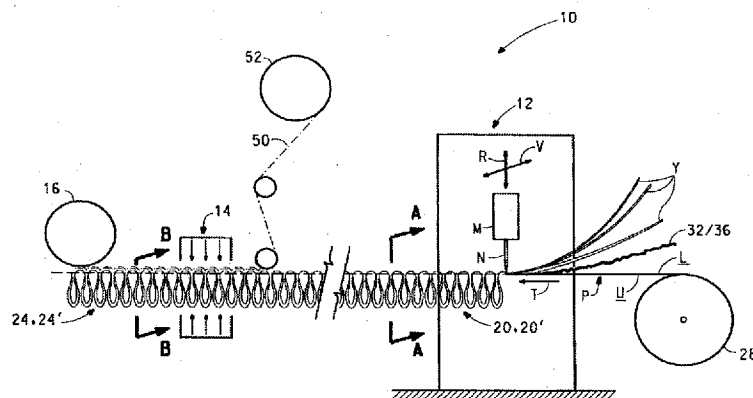
The courtesy extended by Examiner Matthew D. Matzek to inventor Dimitri Zafiroglu, attorney of record H.T. Than (Reg. No. 38,632), and attorney Padma Shah (Reg. No. 54,437) during the interview on February 19, 2009 is greatly appreciated. As noted in the Interview Summary, an Agreement with respect to the claims was reached during that interview, because "Applicant stated that the art taught the application of an adhesive layer at the same time as the fabric face layer, while the claimed invention requires a two step process. Examiner suggested an amendment to the instant claims to help clarify the requirement of a two step process and how it distinguishes over the applied art." This Agreement with respect to the claims is greatly appreciated, and the Applicant includes the substance of the interview in the above amendment and following remarks.

Claims 39 and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zafiroglu (WO 01/40563 A2). Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zafiroglu as applied to claim 39, and further in view of Sidles (US 4,888,228). Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zafiroglu as applied to claims 39 and 44, and further in view of Schmiedel (US 1,798,277). Claims 46 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zafiroglu, and further in view of Murata *et al.* (US 4,576,840). Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zafiroglu, and further in view of Bohm (US 3,830,683). Hence, Zafiroglu forms the basis or the principal basis of all the rejections.

Independent claim 39 has been amended, as per the Examiner's suggestion, to better define the invention. Of particular note, claim 39 has been amended to recite that "after the fibrous face layer is formed," the top surface of the adhesive layer is placed in direct contact with the bottom surface of the fibrous face layer. Support for this revision, indicating a two-step process, can be found in the originally filed application *inter alia* in the text of original claim 39, in the sequence of FIGS. 5-7 (reproduced below), and at page 9, lines 19-23, which state:

Preferably, in this embodiment, the selected non-woven face layer 12, Fig. 5, is needle punched or spunlaced (hydraulically needled) to produce a plurality of free fiber ends 34 at bottom surface 18, Fig. 6. Continuous adhesive layer 22 is then placed in direct contact with bottom surface 18, Fig.

Independent claim 39, as amended, is patentable over Zafiroglu, which discloses a method wherein the application of the adhesive binder layer 32/36 occurs at the same time as the formation of the fabric face layer (the combination of Y and P), which is indicated by FIG. 1 (reproduced below):



6

Thus, claim 39 is patentable over Zafiroglu, at least, because it recites a two-step process for the application of the adhesive to fibrous face layer whereas Zafiroglu discloses a one-step process.

The Applicant also believes that independent claim 39 is patentable over Zafiroglu, because of at least two additional reasons, as explained during the interview on February 19, 2009. First, Zafiroglu introduces binder within the tufted structure that is equated to the claimed fibrous sheet (*i.e.*, the combination of pile yarns Y with backstitch elements B and B', and primary backing layer P) as it is formed by tufting. Thus, unlike the method recited in claim 39, adhesive is not placed on the back of the fibrous face layer after it is formed, because it is already inside. Figures 1 and 2A of Zafiroglu show binder 32 in sheet form placed between the primary backing L and the backstitches B and B'. Figures 1 and 3 of Zafiroglu show binder 36 in yarn or strip form placed under the backstitches, *i.e.*, in the middle of the tufted product.

Second, Zafiroglu aims to "pin the binder against the primary sheet L with the backstitches" (see page 6, lines 9-11), and not to have the adhesive penetrate a distance of the thickness of the fibrous face layer. Tufted carpets avoid penetration of binder through the primary backing into the pile to preserve cushion and softness. In fact Zafiroglu clearly states that he aims to minimize the binder (page 1, lines 24-31), by leaving spaces free of binder even on the opposite side of the pile to "produce a lighter more flexible product" (page 1, line 35). Moreover, contrary to the Examiner's contention, the relative depth in which the adhesive layer penetrates the fibrous face layer is not a result-effective variable that one of ordinary skill in the art could optimize by routine experimentation. In parent application no. 10/611,769, during the interview on July 31, 2007, Supervisory Patent Examiner Terrel H. Morris suggested that the depth of impregnation of the adhesive material (then recited in dependent claims 64 and 65) is important to distinguish over the known art. See the Interview Summary of July 31, 2007 interview, and the Applicant's remarks on page 10 of the Amendment filed on October 1, 2007, in the parent application.

For all the reasons above, independent claim 39, as amended, is patentable over Zafiroglu. Claims 40, 42-47, 54 and 55 depend upon allowable claim 39 and add further limitations, and are patentable for that reason alone. Applicant reserves the right to further support the patentability of these dependent claims, should that become necessary.

In light of the preceding, Applicant believes that the presently pending claims are in condition for allowance, early notice of which would be greatly appreciated. The Examiner is

invited to telephone the undersigned attorney of record if he believes that such a call would materially advance the prosecution and eventual allowance of the present application.

It is not believed that any fees are required with the submission of this response. However, if any fees are due, the Commissioner may charge appropriate fees to The H.T. Than Law Group, Deposit Account No. 50-1980, and if any extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a).

Respectfully submitted,

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